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93-961

Supreme Court, U.S.
FILED
JAN 13 1994
OFFICE OF THE CLERK

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

JOAN E. COLEMAN,

Petitioner,

v.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, BERNADETTE CHAVEZ, HORACE MITCHELL, and DOES 1-50, Inclusive,

Respondents,

On Petition for Writ of Certiorari to the California Court of Appeal for the Fourth Appellate District

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BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

On Brief:

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CHRISTINE HELWICK
JEFFREY A. BLAIR

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STATEMENT OF THE CASE

Petitioner, a 51 year-old African-American woman, worked for THE REGENTS OF THE UNIVERSITY OF CALIFORNIA (the "REGENTS") at U.C. Irvine for four years when she filed three administrative grievances pursuant to the University's grievance policy, MAPP 70.[1]

In each grievance petitioner received the full benefit of the MAPP 70 review she requested, including interviews with witnesses, document reviews, fact finding reports, higher level review, and the opportunity to take her termination grievance to an evidentiary hearing.

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[1] The record attached by petitioner to the petition fails to comply with Supreme Court Rule 14.1(k) in that petitioner fails to attach all opinions, orders, findings of fact and conclusions of law rendered in the case. Record support for a complete and correct statement of the case necessarily requires brief reference to a portion of the record not appended by petitioner. Relevant portions of the complete record are appended, and numbered App-333 et seq.

(App-333 et seq, esp. 348-350 (a list of the review record) and 351-362 (showing a hearing was available).)

Petitioner's various grievances claimed that Vice-Chancellor Dr. Mitchell, also an African-American, and Ms. Chavez, an Hispanic woman, discriminated against her based on race, sex and age. In her first pretermination grievance petitioner requested that a fact finder review her allegations. A fact finder was appointed and interviewed no fewer than 24 individuals including petitioner and her attorney, David Carroll, who represented her throughout the administrative hearings. The fact finder reviewed all pertinent documents and wrote a fact-finding report which was ultimately reviewed by U.C. Irvine Executive Vice Chancellor Tien (now the chancellor of UC Berkeley) who issued a decision denying the grievance in full. (App-341.) Petitioner and her attorney appealed the decision to the next level, which would have called for review by UC Irvine (and now entire UC system) chancellor Jack Peltason. At

petitioner's request the review was instead conducted by the then-University of California system-wide president David B. Gardner's office. (App-341.) As part of the review process for her third, post-termination case, petitioner was offered a full evidentiary hearing including the right to call, confront and cross-examine witnesses. (App-344-345.) Petitioner refused any and all hearing rights. (App-361-362.)

Rather than pursue her internal reviews and hearing rights, or file a writ of mandate in the state court system contesting any procedural or substantive decision on her grievances, petitioner withdrew from the review process, and filed suit in Orange County Superior Court.

The Superior Court dismissed part of her action on demurrer because her failure to exhaust administrative remedies left the court without jurisdiction under state law. The remainder of her claim, as to which the court had jurisdiction, was adjudicated in favor of respondent by summary judgment.

The California Court of Appeal unanimously affirmed in a short, unpublished decision, and the California Supreme Court denied review.

REASONS FOR DENIAL OF THE WRIT

This case presents none of the circumstances listed in this Court's Rule 10 which the Rule suggests guides the exercise of this Court's discretion in granting review.

First, the decision below is an unreviewed and unpublished decision of an intermediate state appellate court, and thus is not a decision requiring review and correction to avoid proliferation of an erroneous rule of law.

Second, the decision below contains absolutely no reference to federal law or a federal question; therefore, no federal question has been decided requiring review.[2]

Third, since no federal question has been decided below, the issue of whether the decision conflicts with the decision of the same federal question by another state supreme court or the U.S. Court of Appeals is moot.

Fourth, since no federal question has been decided below, there is no need to settle any controversy with respect to the manner of its decision.

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[2] Under Sup. Ct. Rule 14(h) petitioner should have specified precisely where and how the federal question has been raised and preserved. While petitioner variously makes reference to small "d" small "p" "due process," respondent sees no reference to Section 1 of the Fourteenth Amendment in any opinion, complaint or brief by petitioner at any stage of the proceeding. The first actual mention of the Fourteenth Amendment, as such, in this record appears in the Petition for Writ of Certiorari.

The issue decided by the California Court of Appeal was simply that under California law petitioner had a remedy to challenge perceived denials of her rights in the University's grievance adjudication system, namely, to proceed via writ. Since petitioner both partially invoked but then abandoned the internal review process and then failed to seek a writ, petitioner had not successfully exhausted her administrative remedies under state law.

Even if this record is construed to contain a federal question, review is not warranted. At no time until the petition for certiorari has petitioner ever contended that the pre-termination notice and opportunity to respond accorded to her violated any rule, procedure or due process. The very first time pre-termination hearing procedures were challenged in this proceeding seems to be in the petition for writ of certiorari. One notes the absence of any discussion at all on this issue in the demurrer or opinion of the Court of Appeal.

With respect to post-termination hearing procedures, under California law any due process challenge petitioner may have wished to bring to these matters could, and should, have been raised via writ. (Westlake Community Hosp. v. Superior Court, 17 Cal.3d 465 [131 Cal.Rptr. 90] (1976); Edgren v. Regents of University of California, 158 Cal.App.3d 515 [205 Cal.Rptr. 6] (Cal.Ct.App. 1985).) Petitioner had an adequate mechanism to raise any constitutional or other challenge, and failed to do so.

Finally, petitioner's characterization of this record as a matter in which she was denied an administrative hearing (see Petition, p. 11) is simply wrong. As the record appended to this opposition reflects, the procedures under which her post-termination review was conducted were administered in a way where an opportunity for a full evidentiary hearing was expressly extended to her, which opportunity she refused. (App-361-362.)

Respondent respectfully prays that the petition be denied.

Dated: January 11, 1994

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APPENDIX TO
BRIEF IN OPPOSITION TO PETITION
FOR WRIT OF CERTIORARI

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Attorneys for Defendants
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Bernadette Chavez and Horace Mitchell

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ORANGE

JOAN E. COLEMAN,) Case No. X629380
)

Plaintiff,	)	EXPEDITED TRIAL PROGRAM
	)	JUDGE DAVID C. VELASQUEZ
vs.	)	
	)	EXEMPT FROM FEES
THE REGENTS OF THE	)	(Cal. Govt. Cod, §6103)
UNIVERSITY OF	)	
CALIFORNIA, et al.,	)	DECLARATION OF BARBARA
	)	DAVIA IN SUPPORT OF
Defendants.	)	DEFENDANTS' MOTION FOR
	)	SUMMARY JUDGMENT

Date: December 11, 1991
Time: 1:30 p.m.
Dept: 27
Discovery
Cut-Off: July 12, 1991
Motion
Cut-Off: January 3, 1992
Trial Date: February 3, 1992

I, Barbara Davia, declare:

1. I am the Manager of the Labor Relations and Consulting Services Department on the University of California, Irvine campus ("UCI"). I have been employed by UCI in that capacity since

May 13, 1981. The facts stated herein are based on my own personal knowledge and I could and would competently testify to them if called to do so.

2. Joan Coleman was employed by UCI from July 18, 1983 to December 7, 1988. During the period from September 24, 1984 to December 7, 1988, Joan Coleman was a Principal Analyst (Research and Planning Analyst) in the Office of Student Affairs. Her appointment was within the University of California Management and Professional ("MAP") Program subject to MAP policies.

3. The MAP policies contain all of the terms and conditions governing any employee within the MAP program, including Ms. Coleman. Included within the MAP policies is policy number 70 providing a MAP employee the right and opportunity to grieve within the University's quasi-judicial administrative process any and all claims and/or complaints concerning the terms and conditions of MAP employment.

MAP 70 policy entitled "Administrative Review" authorizes a MAP employee to grieve allegations of discrimination as well as termination of appointment. A true and correct copy of the MAP 70 Administrative Review policy that pertained to the plaintiff's termination grievance is attached hereto as Exhibit A.

4. MAP policy 70 describes that initial complaints concerning actions and conditions which may adversely affect a member's employment shall be discussed with the member's immediate superior. (See MAP 70 Administrative Review Policy subdivision (A).) MAP 70 provides that if the concerns regarding conditions and actions cannot be resolved through discussions with the member's immediate superior, the member may submit a request for review to the University official at the next administrative level. That official is charged with providing a written response. The policy provides that if the complaint is not resolved at that

level, a new written request may be submitted to designated officials at higher administrative levels pursuant to campus procedure.

5. Under the current MAP 70, when a complaint raises charges of discrimination or involves termination of employment (as in this case), the employee is entitled to an evidentiary fact finding. In plaintiff's case, while the evidentiary fact finding language of MAP 70 was in the process of being incorporated into the policy, I specifically told plaintiff's attorney, Mr. David Carroll, that the new policy calling for an evidentiary fact finding would apply to the plaintiff's grievance.

6. Under the policy, the fact finder is selected from outside the department where the action challenged was taken. The fact finder is empowered to take whatever steps are reasonably necessary to investigate the facts, including providing participants an opportunity to present information and comment on information provided by others. The fact finder then renders a written report. Under current policy, the fact

finder is expressly empowered to conduct an evidentiary fact finding and the employee is entitled to be represented by counsel. (See Exhibit B hereto "Instructions to Fact Finder" issued March 1, 1989.)

7. My responsibility as Manager, Labor Relations and Consulting Services, is to receive all MAP 70 grievances (and others) and see that they are processed according to policy. It is not my job, nor was it in the case of Joan Coleman, to adjudicate the facts or make determinations as to the merits of the claims. I am, however, the person responsible for receiving all MAP 70 administrative review charges and am responsible for maintaining UCI official grievance files. I am therefore able to comment on the exact process utilized by Joan Coleman in each of there three grievances which I discuss herein.

8. Ms. Coleman filed her first request for administrative review (#C-MP-889-02) on September 29, 1988, alleging that she was denied employment opportunities and had been demoted and

emotionally harassed because of her age and third-party sexual discrimination. The charge pertained to a claim that the Vice Chancellor of Student Affairs, Horace Mitchell, had effectively demoted her by causing her to report to Dr. Mitchell's executive assistant, Bernadette Chavez. Ms. Coleman alleged that reporting to Ms. Chavez, an executive assistant to the Vice Chancellor, amounted to a "demotion" and alleged that the basis of the demotion was because of her age and sex discrimination. Attached hereto as Exhibit C is a true and correct copy of Ms. Coleman's request for administrative review #C-MP-889-02 dated September 29, 1988 without attachments that were transmitted with the administrative review.[1]

9. In accordance with MAP policies and procedures, Dr. Horace Mitchell filed a written response as he was the next level

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[1] Attachments have been excluded herein solely to avoid burdening the court with voluminous ancillary documents of no material value in this motion.

superior (see Exhibit D hereto, a true and correct copy of Dr. Mitchell's response dated October 26, 1988 without attachments that accompanied the response.) Ms. Coleman appealed to the next level. Ms. Coleman was at all times represented by David Carroll, the attorney representing her in this civil suit.

10. Catherine "Penny" Sperling, the Clinic Supervisor/Director of Ambulatory Care Nursing at the UCI Medical Center, was appointed as fact finder. In accordance with MAP policies and procedures, she was not from Ms. Coleman's department and not familiar with the parties. Attached hereto as Exhibit E is a true and correct copy of the fact finding report of Ms. Sperling dated December 20, 1988. As is evident by the report, Ms. Sperling interviewed no less than 24 individuals concerning the claims of age and sex discrimination, including the plaintiff and her attorney,and concluded no such discrimination had occurred.

11. Ms. Sperling's report was sent to Executive Vice Chancellor Chang-Lin Tien (now the Chancellor of the UC Berkeley campus) who issued a decision on January 20, 1989 denying the grievance in full. (A true and correct copy of then Vice Chancellor Tien's January 20, 1989 letter to Coleman is attached hereto as Exhibit F.) Mr. Carroll and Ms. Coleman then appealed the Executive Vice Chancellor's decision to the next level. Under MAP 70, the normal final reviewer would have been UCI Chancellor Peltason. However, plaintiff and her counsel requested the review be conducted by University of California Systemwide President David P. Gardner. UCI agreed to have the next step review conducted by the Office of the President and the charges of sex and age discrimination were then reviewed by Assistant Vice President--Employee Relations (Systemwide) Lubbe Levin for a final decision. Assistant Vice President Levin issued a final decision which was transmitted to Ms. Coleman concluding that Ms. Coleman was not

subjected to discrimination on the basis of age or sex, that Ms. Coleman was not subjected to third-party discrimination on the basis of sex, that Ms. Coleman was not subjected to personal or emotional harassment and that Ms. Coleman was not denied support by Dr. Mitchell concerning her professional development. A true and correct copy of Assistant Vice President Levin's final decision dated November 15, 1989 with the attached Administrative (Third-Level) Review prepared by Mattie Williams is attached hereto as Exhibit G.

12. On November 28, 1988, Joan Coleman filed her second request for administrative review (#C-MP-889-03) alleging that a written warning given to her on November 23, 1988 was discriminatory and given in retaliation for her having filed the previous request for administrative review. A true and correct copy of that administrative review (without attachments) is attached hereto as Exhibit H.

13. As with the other administrative reviews, Ms. Coleman was represented throughout by attorney David Carroll and all MAP policies and procedures were complied with. This administrative review was taken by Ms. Coleman through the first level, that is, through her immediate superior, Dr. Mitchell, who issued a response on December 7, 1988 (a true and correct copy of which is attached hereto as Exhibit I). Dr. Mitchell's decision was that the behavior on November 18, 1989 was insubordinate and that the written warning would stand.

14. On February 13, 1989, I personally wrote to Ms. Coleman regarding closing that administrative review as no request had been received from her or her attorney requesting a further review. A true and correct copy of my February 13, 1989 letter to Ms. Coleman closing the administrative review is attached hereto as Exhibit J.

15. On January 16, 1989, Joan Coleman filed a third request for administrative review (#C-MP-889-04, a true and correct copy

of which is attached hereto as Exhibit K without attachments) alleging that the termination of her employment constituted wrongful termination based upon, among other things, her race. As with the other administrative reviews, this one comported in all respects with the MAP 70 policy. Julie Richwine performed a staff investigation for Executive Vice Chancellor Tien and issued a report of her investigation on April 14, 1989. On April 18, 1989, I sent to Mr. Carroll Julie Richwine's report which she had given to then Executive Vice Chancellor Tien. A true and correct copy of my April 18, 1989 letter with the enclosed Richwine Report is attached hereto as Exhibit L.

16. At that time, the University was incorporating an evidentiary fact finding into the MAP 70 program and on May 4, 1989 I wrote to David Carroll granting him an extension to May 15, 1989 for Joan Coleman's next level response and clarifying that an evidentiary fact finding would be available if Joan Coleman wished to use it. A true and

correct copy of my May 4, 1989 letter is attached here to as Exhibit M. Mr. Carroll did not ask for an evidentiary fact finding at all which was available to both Ms. Coleman and Mr. Carroll had they requested it.

17. On May 16, 1989 I received Joan Coleman's response to the Richwine report (a true and correct copy of which is attached hereto as Exhibit N). On May 22, 1989 I wrote again to Mr. Carroll acknowledging receipt of Ms. Coleman's response and confirming that no request had been made for a meeting with then Executive Vice Chancellor Tien or for an evidentiary fact finding. A true and correct copy of my May 22, 1989 letter is attached hereto as Exhibit O.

18. On June 7, 1989, Executive Vice Chancellor Tien issued his decision upholding Ms. Coleman's termination and finding no race discrimination or other discrimination; his decision was transmitted to Joan Coleman on June 7, 1989 (a true and correct copy of the transmittal is attached hereto as Exhibit P).

19. For approximately five months thereafter, Mr. Carroll discussed with various individuals within the University, including myself and University Counsel Edward M. Opton, the processing of #C-MP-0889-02 by the Office of the President. This third grievance was held in abeyance pending resolution of Ms. Coleman's previous grievance (#C-MP-889-02). After Assistant Vice President Levin's decision regarding the #C-MP-889-02 grievance was issued on November 15, 1989, I forwarded that decision to UCI Chancellor Jack Peltason on November 20, 1989 (a true and correct copy of my November 20, 1989 letter is attached hereto as Exhibit Q) for his consideration. On November 30, 1989, Chancellor Peltason issued his decision concerning C-MP-889-04 finding that the termination of Ms. Coleman was justified and conducted in accordance with MAP policies. (A true and correct copy of Chancellor Peltason's decision is attached hereto as Exhibit R.)

20. On December 1, 1989, I forwarded Chancellor Peltason's decision to Ms. Coleman, concluding all administrative reviews (a true and correct copy of my December 1, 1989 letter is attached hereto as Exhibit S).

21. Joan Coleman has never initiated any administrative writ of mandate or any other appeal mechanism to challenge any of the administrative reviews which are now final and binding.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 7th day of November, 1991 at Irvine, California.

/s/ Barbara Davia
Barbara Davia

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EXHIBITS TO DECLARATION OF BARBARA DAVIA IN SUPPORT OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Exhibit

A MAP 70 Administrative Review Policy

B "Instructions to Factfinders" Appointed Under MAP Policy 70

C Joan Coleman' Request for Administrative Review No. C-MP-889-02

D Response to Request for Administrative Review by Joan Coleman, authored by Horace Mitchell, Ph.D

E Factfinders Report on Administrative Review Action of Joan Coleman, dated December 20, 1988

F Letter from Chang-Lin Tien to plaintiff, dated January 20, 1989

G Letter from Lubbe Levin to Barbara Davia, dated November 15, 1989

H Joan E. Coleman's Request for Administrative Review, dated November 28, 1988

I Letter dated December 7, 1988 from Horace Mitchell to Joan Coleman

J Letter of February 13, 1989 from Barbara Davia to Joan Coleman

K Joan Coleman's Third Request for Administrative Review, dated January 6, 1989 (without attachments)

L Letter dated April 18, 1989 from Barbara Davia to David Carroll enclosing the Richwine report

M Letter dated May 4, 1989 from Barbara Davia to Attorney David Carroll

N Joan Coleman's Response to the Richwine report, dated May 15, 1989

O Letter dated May 22, 1989 from Barbara Davia to David Carroll

P Letter dated June 7, 1989 from Executive Vice Chancellor Chang-Lin Tien to Joan Coleman

Q Letter dated November 20, 1989 from Barbara Davia to Chancellor Jack W. Peltason

R Letter dated November 30, 1989 form Chancellor Peltason to Joan Coleman via Barbara Davia

S Letter of December 1, 1989 from Barbara Davia to Joan Coleman

[Only Exhibits M and O are attached]

[EXHIBIT M]

University of California, Irvine [Letterhead]

May 4, 1989

ADDRESSEE ONLY

Mr. David Carroll
Drummy Garrett King & Harrison
P.O. Box 5080
Costa Mesa, CA 92628

RE: Administrative Review #C-MP-889-04
Joan Coleman, Termination

Dear Mr. Carroll:

You have requested in your letter of May 1 an extension to May 15 for Ms. Coleman to provide further information to Dr. Tien and/or to schedule a meeting with him. Your request is granted.

As I have stated in several letters to you, University policies and procedures have been designed to provide fairness and an orderly process for review. There has never been nor is there now any intent to deprive Ms. Coleman of her right to be heard. Imposition of time limits is intended to ensure that the process moves along, and extensions of time have been and will continue to be granted when necessary to both you and your client and to University officials in the interest of having a thorough

record and thoughtful consideration of the issues. Should you or Ms. Coleman require an extension of time in the future, a simple request will suffice.

Ms. Coleman has not requested that a factfinding be conducted in this Administrative Review, but I wanted to call to her attention a recent change in the policy, effective April 1, which provides for evidentiary factfinding in termination and medical separation cases. A copy of the revised policy is enclosed. While Ms. Coleman filed her request for review before the effective date of the revised policy, since the review is still in progress, we could arrange for an evidentiary factfinding if she wishes to have one. Please advise by May 10 if Ms. Coleman wishes to do so.

Very truly yours,

/s/jt/ Barbara Davia
Barbara Davia, manager
Labor/Employee Relations

Attachment

cc: Joan Coleman w/Attachment
Horace Mitchell w/Attachment
Edward Opton w/Attachment

70 ADMINISTRATIVE REVIEW

A. COMPLAINTS

A Management and Professional Program member is expected to discuss, with the member's immediate superior, conditions and actions which may adversely affect the member's employment.

B. REQUESTS FOR REVIEW

If the concerns regarding conditions and actions cannot be resolved through discussion with the member's immediate superior, the member may submit a request for review to the University official at the next administrative level. A request for review shall be in writing, shall contain copies of all relevant documents, and be received within thirty calendar days of the date the member could be expected to know of the condition or action which gave rise to the request. A written response to a request for review shall be made by the official to whom it is submitted. If the complaint is not resolved at that level, a new written request for review may be submitted to designated officials at higher administrative levels pursuant to campus procedure.

C. COMPLAINTS REGARDING TERMINATION, DISCRIMINATION, OR MEDICAL SEPARATION

If the condition or action which adversely affects the member's employment involves termination of appointment (Policy 85, Termination of Appointment), an allegation of discrimination

(Policy 12, Nondiscrimination), or medical separation (Policy 78, Medical Separation), the member may at any step, after conclusion of the review by the member's immediate superior, request in writing that the Chancellor or the Chancellor's designee appoint a factfinder. Such a request shall be in writing, and shall contain a statement of the complaint and copies of all relevant documents. In addition, such a request shall cause the process described in Section B above to be suspended pending the factfinder's report.

The factfinder shall be selected from outside of the department where the action challenged was taken. The factfinder shall take whatever steps are reasonably necessary to investigate the facts, including providing participants an opportunity to present information and to comment on information provided by others, and render a written report. The "University of California Instructions to Factfinders Appointed under MAP Policy 70 to Review Termination and Medical Separation Complaints" shall be provided to each factfinder who is appointed to investigate issues of Termination of Appointment and Medical Separation. The instructions shall also be provided to the Management and Professional Program member who has requested factfinding on these issues.

If the complaint is not resolved with the decision of the official receiving the report, the member may submit the report and copies of all documents related to the complaint to designated officials at higher administrative levels described in Section B who have not previously responded. Decisions at higher levels must be based on findings of fact. If a decision is based on facts different from those

found by the factfinder, those findings must be based on materials in the record.

UNIVERSITY OF CALIFORNIA
INSTRUCTIONS TO FACTFINDERS APPOINTED UNDER MAP POLICY 70 TO REVIEW TERMINATION AND MEDICAL SEPARATION COMPLAINTS

A. INTRODUCTION

Policy 70, paragraph C, of the Management and Professional program Personnel Policies, provides that if members of the Program wish, they may request the appointment of a factfinder in cases of termination of appointment and medical separation. (MAP Program Policy 70 also provides the opportunity for a factfinder to be appointed to review discrimination complaints. These instructions do not apply to complaints of discrimination.)

> The factfinder shall take whatever steps are reasonably necessary to investigate the facts, shall provide the opportunity for participants to present information and to comment on information provided by others, and shall submit a written report to the appropriate level of review for decision, as set forth in campus procedure.

B. PROCEDURES

1. Requests for Review

If the MAP Program member's complaint is not resolved at the conclusion of the review by the member's immediate

superior, the member is entitled to request, in writing, one factfinding at a subsequent administrative level. Such a request shall cause the review process as described in MAP Policy 70.B to be suspended pending the factfinder's report.

2. Submissions to the Factfinder

The factfinder shall review the written statement of the MAP Program member's complaint and the written responses, if any. The member's written complaint shall provide the following information:

a. a statement of the issues under review (the subject(s) of the complaint);

b. the position of the MAP Program member with respect to the issues under review.

c. a narrative description of the facts of the case, including the attachment of relevant documents; and

d. a statement of how the facts support the MAP program member's position.

If there has been no written response to the MAP Program member in the preceding steps of the process, the factfinder shall forward the MAP Program member's

complaint to the appropriate University official for a response.

The MAP Program member shall be provided with a copy of the University official's response.

3. Evidentiary Factfinding

Should either party to the complaint request it, or should the factfinder deem it necessary, the factfinder shall conduct an evidentiary factfinding.

Each party to the complaint has the following rights:

a. to appear personally before the factfinder;

b. to present evidence; and

c. to be present when witnesses testify and to examine and cross-examine witnesses.

4. Determination of Facts

The factfinder shall determine the facts based on the written submissions of each party and the evidentiary review sessions, if any were conducted.

C. FACTFINDER'S REPORT

The factfinder's report shall contain the following information:

1. a clear statement of the issues under review;

2. the positions of the parties;

3. a brief summary of the information received; and

4. findings of fact.

The report shall not contain any recommendations or remedies. However, the report shall provide a sufficient record of the facts so that the reviewing authority can use it as a basis for a decision and for determining any appropriate remedies.

All documentation which was received by the factfinder in making the findings shall be attached to the report.

D. TIME LIMITS

Time limits shall be as outlined in MAP Policy 70.B and as supplemented by campus procedure.

E. RECORDS

The factfinder shall submit requests for necessary records to the Personnel Manager, who shall provide them in accordance with policies governing access to personnel records.

F. REPRESENTATION

The MAP Program member filing the request and the University may be represented by counsel or by another person throughout the factfinding process.

[EXHIBIT O]

University of California, Irvine [letterhead]

Personnel

May 22, 1989

ADDRESSEE ONLY

Mr. David Carroll
Drummy Garrett King & Harrison
P.O. Box 5080
Costa Mesa, CA 92628

RE: Administrative Review #C-MP-889-04
Joan Coleman, Termination

Dear Mr. Carroll:

Ms. Coleman's letter of May 15, responding to mine of April 18 transmitting Julie Richwine's report, has been received.

This will confirm that no request for a meeting with Dr. Tien was made, nor was there a request for an evidentiary factfinding.

Ms. Coleman's letter of May 15 will be forwarded to Dr. Tien for his response.

Very truly yours,

/s/ Barbara Davia
Barbara Davia, Manager
Labor/Employee Relations

Attachment

cc: Joan Coleman
Horace Mitchell
Edward Opton
Chang-Lin Tien